

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NORMAN SHAPIRO,

Plaintiff(s),

-v.-

MAYOR ERIC ADAMS; CITY OF NEW
YORK,

Defendant(s).

22 Civ. 2603 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

As suggested in the Court's Order dated July 6, 2022 (Dkt. #27), Plaintiff's Title VII claims are premature. Recognizing that he must exhaust administrative remedies before proceeding with his Title VII claim, Plaintiff previously requested that the Court stay this matter pending review of his case by the Equal Employment Opportunity Commission (EEOC). (Dkt. #26). At the conference held on September 21, 2022, Plaintiff reported that he has still not obtained a right-to-sue letter from the EEOC. A right-to-sue letter is a statutory prerequisite to bringing a Title VII suit. *NAACP v. Town of East Haven*, 259 F.3d 113, 115 n.4 (2d Cir. 2001). The Court thus dismisses Plaintiff's Title VII claim without prejudice to its refiling in a separate case at the appropriate time. *See Grey v. Promenade Rehab. & Care Ctr.*, 145 F. App'x 705, 706 (2d Cir. 2005) (summary order) (affirming district court's *sua sponte* dismissal of Title VII complaint because "[the Plaintiff] had failed to obtain a right-to-sue letter from the [EEOC]"). This case will proceed on the remaining FLSA and state law claims.

The Court understands from the September 21 conference that Plaintiff is considering amending his operative pleading and that Defendants intend to file a motion to dismiss that pleading for failure to state a claim. If Plaintiff chooses to amend his complaint, he shall do so no later than **November 7, 2022**. The parties shall then adhere to the following schedule:

Defendants' motion to dismiss is due **December 7, 2022**;

Plaintiff's opposition is due **January 16, 2023**; and

Defendants' reply is due **January 30, 2023**.

Additionally, Defendants are ordered to provide Plaintiff with copies of all of the authorities cited in their motion papers. The parties shall confer to determine whether Defendants shall provide those authorities to Plaintiff electronically or in hard copy.

The Clerk of Court is directed to mail a copy of this Order to Plaintiff's address of record.

SO ORDERED.

Dated: September 21, 2022
New York, New York



KATHERINE POLK FAILLA
United States District Judge